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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,838	05/20/2002	Egbert Frenken	(913/40130) Case 300-PCT	5383

7590 01/30/2004  
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EXAMINER

BRYANT, DAVID P

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/069,838

Applicant(s)

FRENKEN, EGBERT

Examiner

David P. Bryant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 27-52 is/are pending in the application.
- 4a) Of the above claim(s) 36-48, 51 and 52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-35 and 49-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Species A (readable on claims 27-35 and 49-50) in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 36-44 and 51-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

### *Specification*

The disclosure is objected to because of the following informalities:

#### Page 1:

In line 21, the specific reference to "claim 1" should be deleted from the disclosure, since it is not unusual for claim numbers to change during prosecution.

#### Page 8:

In line 9, the specific reference to "one or more of claims 1-22" should be deleted from the disclosure, since it is not unusual for claim numbers to change during prosecution.

Appropriate correction is required.

***Claim Objections***

Claim 27 is objected to because of the following informalities:

In line 6, "(14)" should apparently be --(16)--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 27-35 and 49-50 are rejected under 35 U.S.C. 112, second paragraph, as**  
being indefinite for failing to particularly point out and distinctly claim the subject matter which  
applicant regards as the invention.

**Claim 27:**

In lines 1-2, "it being possible" is indefinite. It is unclear what the intention of this language is. Is applicant attempting to explicitly recite the holding-down piston and the die piston as components of the riveting unit? If so, this arrangement should be claimed (e.g. "a holding-down piston for hydraulically driving the holding-down means and a die piston for hydraulically driving the riveting die").

**Claim 28:**

In lines 2-3, "the holding-down piston (12) is coupled to the holding-down piston (3)" is indefinite due to an apparent typo. The second "piston" should be changed to --means--.

**Claim 32:**

In line 1, "the restoring spring" lacks proper antecedent.

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Claim 34:

In line 1, “the cylinder” lacks proper antecedent.

In line 3, “the outward direction” lacks proper antecedent.

Claim 49:

In lines 5-6, “the holding-down force” lacks proper antecedent. Is this the force applied directly to the elements by the holding-down means, or the force applied against the holding-down means to apply a certain force to the elements?

In line 6, it is unclear what is meant by “increased in dependence on the die force (N), but to a lesser extent.” Further, is the “die force” the force applied directly to the rivet/elements by the riveting die, or the force applied against the riveting die to apply a certain force to the rivet/elements?

Claim 50:

This claim is indefinite. It is simply unclear what applicant is attempting to claim with this language. By “first of all” is applicant trying to recite that the riveting-die force will at some point exceed the holding-down force? It is unclear whether the use of “starting” and “first of all” is merely redundant, or an attempt to limit the scope of the claim in some way.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**Claims 27, 29, 30, 49, and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by German reference DE 41 09 407.**

Claim 27: Note holding-down means **2** having a holding-down piston portion extending therefrom, riveting die **3**, and die piston **5**. As shown in Figure 1, the effective piston area of the holding-down piston is smaller than the effective piston area of the die piston.

Claim 29: Note die piston spring **24**, which is stronger than holding-down piston spring **25**.

Claim 30: As shown in Figure 1, springs **24** and **25** are concentric in that they have a common axial centerline **3**.

Claims 49 and 50: As these claims are best understood in view of the § 112 problems, the hydraulic pressure device **13** meets the limitations of these claims, in that it permits the relative adjustment of the holding-down force and the die force, as disclosed.

**Claims 27 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by German reference DE 750 525.**

Claim 27: In Figure 1, note holding-down means **a** having a holding-down piston portion **f** extending therefrom, riveting die **c**, and die piston **d**. The effective piston area of the holding-down piston is smaller than the effective piston area of the die piston.

Claim 33: As shown in Figure 1, the holding-down means and riveting die are formed at least partially as sleeve bodies, and are disposed concentrically with each other and can be displaced axially in relation to each other.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

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obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference DE 750 525 ('525) in view of German reference DE 41 09 407 ('407).**

'525 teaches all claimed features, as outlined above, with the exception of hydraulic valves to regulate the operation of the hydraulic system.

'407 teaches these valves at 11 and 15 of Figure 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the riveting unit of '525 with hydraulic vales, as taught by '407, to regulate the operation of the hydraulic system.

#### ***Allowable Subject Matter***

**Claims 28, 31, and 32 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Telephone inquiries regarding the status of this application, or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies

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of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David Bryant** whose telephone number is **(703) 308-1859**. Draft amendments or proposed changes to the application may be faxed directly to the examiner at any time via RightFAX at (703) 746-4213 (formal inquiries or responses should NEVER be faxed to this number). The examiner can normally be reached on **Mondays-Thursdays from 6:30 AM to 5:00 PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The official fax phone number for the organization where this application or proceeding is 703-872-9306 for all communications (including After Final communications).

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



David P. Bryant  
Primary Examiner  
Art Unit 3726